

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

WALKER & SONS, INC.

CIVIL ACTION NO. 6:09-cv-1822

VERSUS

JUDGE HAIK

PUNCH YA DADDY, LLC et al

MAGISTRATE JUDGE HILL

SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Now into Court, through undersigned counsel, comes **Walker and Sons, Inc.**, Plaintiff herein, which amends and supplements its “Complaint for Injunctive Relief and Damages and Application for Preliminary Injunction” filed herein on September 23, 2009 (“Complaint”), as follows:

To amend the Complaint to add the following new claim entitled **Request for Declaratory Judgment**, as set forth in amended paragraphs 23 through 27 as follows:

23.

Plaintiff, Walker & Sons, Inc., by and through undersigned counsel brings this Amended Complaint for Declaratory Judgment against Defendant Punch Ya Daddy, LLC and respectfully alleges as follows:

24.

This Complaint for Declaratory Judgment seeks a declaration that Defendants’ registered trademark “Punch Ya Daddy” is not a valid mark and its registration should be cancelled with the United States Patent and Trademark Office on the grounds that it will cause a likelihood of confusion with Plaintiff’s senior mark, “Slap Ya Mama.”

Additionally, there is a strong chance that use of the proposed mark, “Punch Ya Daddy,” will cause dilution of Plaintiff’s senior mark, “Slap Ya Mama.”

25.

On March 30, 2010, Defendants’ mark “Punch Ya Daddy” was registered as a trademark by the United States Patent and Trademark Office. Plaintiff has a reasonable apprehension that Defendants’ use in commerce of the mark “Punch Ya Daddy” will lead to infringement of its senior mark, “Slap Ya Mama,” because of a high likelihood of confusion between the mark and a high likelihood of dilution of Plaintiff’s senior mark.

26.

An actual controversy has arisen and now exists between Walker & Sons, Inc. and Punch Ya Daddy, L.L.C. with respect to potential trademark infringement and the invalidity of the mark “Punch Ya Daddy.” Plaintiff is entitled to have this Court declare its rights pursuant to the Declaratory Judgment Act, 28 USC §§ 2201 and 2202.

27.

The Lanham Act grants jurisdiction to this Court to hear this action to prevent a violation of Plaintiff’s trademark rights. 15 U.S.C. § 1116(a). This Court also has jurisdiction over any action involving the Defendants’ right to registration and may order canceled any registration of the mark “Punch Ya Daddy.” 15 U.S.C. § 1119.

Walker & Sons, Inc. seeks the following relief:

1. A declaration that registration of the mark “Punch Ya Daddy” is invalid on the grounds that the mark will cause a likelihood of confusion with Plaintiff’s senior mark, “Slap Ya Mama.”

2. An order directing the United States Patent and Trademark Office to cancel registration of the mark “Punch Ya Daddy.”
3. An award of all costs incurred in this action; and
4. Such other and further relief including, but not limited to, injunctive relief, that this Court deems just and proper.

Wherefore Plaintiff, Walker & Sons, Inc., prays that, after due proceedings be had, judgment issue in its favor and against Defendants, together with legal interest from date of judicial demand and all costs of these proceedings.

Plaintiff further prays for a trial by jury on all claims.

And for all general and equitable relief in the premises.

Respectfully submitted,

_____/signed_____
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel of record by operation of the court's electronic filing system.

Lafayette, Louisiana, this 19th day of April, 2010.

_____/signed_____
Ryan Goudelocke